

OFFICE OF THE ATTORNEY GENERAL



85-00115

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DEC 7 1984

OPINION MODIFIED

Honorable Perry Hand
State Senator
P. O. Box 478
Gulf Shores, Alabama 36542

2/11/88
Perry Hand
85-00180

Competitive Bid Law - Contracts
- State agencies

Act No. 84-228, *infra*, which gives preference to resident contractors over certain out-of-state contractors applies to contracts in which any state, county or municipal funds are utilized, except those contracts funded in whole or in part by the Federal Government.

Dear Senator Hand:

In a recent letter addressed to this office you requested an opinion pertaining to the applicability of Act No. 84-228, Acts of Alabama, which reads, in pertinent part, as follows:

Section 1. In the letting of public contracts in which any state, county, or municipal funds are utilized, except those contracts funded in whole or in part with funds received from a federal agency, preference shall be given to resident contractors, and a nonresident bidder domiciled in a state having laws granting preference to local contractors shall be awarded Alabama public contracts only on the same basis as the nonresident

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bidder's state awards contracts to Alabama contractors bidding under similar circumstances; and resident contractors in Alabama, as defined in Section 39-2-12, Code of Alabama 1975, be they corporate, individuals or partnerships, are to be granted preference over nonresidents in awarding of contracts in the same manner and to the same extent as provided by the laws of the state of domicile of the nonresident.

Section 2. Nonresident bidders must accompany any written bid documents with a written opinion of an attorney at law licensed to practice law in such nonresident bidders' state of domicile, as to the preferences, if any or none, granted by the law of that state to its own business entities whose principal places of business are in that state in the letting of any or all public contracts."

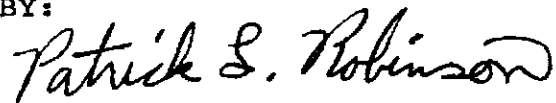
The clear purpose of this Act is to treat out-of-state companies in the same manner that other states in which such companies are domiciled treat Alabama companies in the awarding of public contracts. If a company from another state submits a bid in Alabama then that company will face the same obstacles faced by Alabama companies in that state. For example, in the event a company from a state giving a 5% preference to in-state bidders submits a bid in Alabama then the Alabama bidders will be given a 5% preference over that particular out-of-state bidder. Hopefully, this Act will encourage other states to repeal any laws that they might have which discriminate against companies from Alabama. In my opinion the clear language of the Act mandates its application to all contracts of whatever nature in which any state, county or municipal funds are utilized, except those contracts funded in whole or in part with funds received from the Federal government.

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If I may be of any further assistance to you regarding
this matter please do not hesitate to contact me.

Very truly yours,

CHARLES A. GRADDICK
ATTORNEY GENERAL
BY:

A handwritten signature in cursive script that reads "Patrick L. Robinson". The signature is written in dark ink and is positioned below the typed name of the signatory.

PATRICK L. ROBINSON
ASSISTANT ATTORNEY GENERAL

CAG:lo:w